

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

KALOMA CARDWELL,

Plaintiff,

v.

DAVIS POLK & WARDWELL LLP,
THOMAS REID, JOHN BICK, WILLIAM
CHUDD, SOPHIA HUDSON, HAROLD
BIRNBAUM, DANIEL BRASS, BRIAN
WOLFE, and JOHN BUTLER,

Defendants.

19 Civ. 10256 (GHW)

**DECLARATION OF SUSANNA BUERGEL IN SUPPORT OF
DEFENDANTS' MOTION FOR FEES AND COSTS**

I, Susanna Buergel, declare pursuant to 28 U.S.C. § 1746 that:

1. I am a partner at the law firm of Paul, Weiss, Rifkind, Wharton & Garrison LLP, 1285 Avenue of the Americas, New York, New York 10019, counsel for defendants.

2. I submit this declaration in support of defendants' January 20, 2021 motion for fees and costs incurred as a result of failure by plaintiff and his counsel to comply with their discovery obligations.

3. I have reviewed the hours actually spent by counsel and support staff, and the amounts actually invoiced to defendants in connection with defendants' motion to compel, heard by the Court on January 13, 2021.

4. As this Court is aware from prior filings (*e.g.*, ECF 75 at 2 n.2), the parties' negotiations with respect to deficiencies in Mr. Cardwell's production and written discovery began in July 2020, and continued through submission of defendants' reply brief in support of their

motion to compel, filed in December 2020 (ECF 112). As defendants explained in the joint letter to the Court on September 29, 2020, ECF 75 at 2 n.2, the labor triggered by noncompliance on the part of plaintiff and his counsel included multiple written exchanges relating to deficiencies in the production and plaintiff's written discovery, including the drafting of substantive letters served July 27, August 13, and August 18, 2020, *id.*; four meet-and-confer calls prior to seeking judicial intervention, as encouraged by this Court's individual rules, spanning five hours, *id.*; various preparations for the same; drafting of a joint letter to the Court; attendance at a Court-ordered pre-motion conference; and document review, technical analysis, and legal research associated with efforts to respond to positions taken by plaintiff and his counsel and to avoid the need for judicial intervention. Following the November 2020 court conference in connection with this matter, defendants incurred fees associated with legal research, analysis, drafting, and filing of a motion to compel and a reply brief. In my professional judgment, based on review of time records, these expenditures of time were necessary and reasonable.

5. I have, in connection with this motion, (i) itemized those costs incurred in November and December 2020, beginning with and flowing from the November 4, 2020 court conference precedent to the motion to compel, (ii) itemized only fees assessed for work performed by the core team responsible for preparing the motion, and (iii) applied the rates offered to and paid by the client. I have not included unbilled time for the month of January in connection with preparation for or attendance at the Court conference.

6. Within those parameters, the partners handling the matter at issue here (myself and Mr. Birenboim) dedicated approximately 18 hours to managing and responding to noncompliance by plaintiff and his counsel. The senior and junior associates who took the lead in the factual analysis, review of the record, legal research, drafting, and preparation for the court conference integral to the motion spent 102 hours. The amount actually invoiced to defendants in connection this work was \$99,565.20. A chart with relevant figures appears below.

	Hours	Cost (Discounted Rate Times Hours)
Bruce Birenboim	3.9	\$5,791.50
Susanna Buerger	14.4	\$21,384.00
Senior Associate	30.6	\$29,330.10
Junior Associate	71.4	\$42,732.90
Paralegal	1.1	\$326.70
	121.4	\$99,565.20

7. Because the costs to prepare further itemizations are substantial, I have not further itemized the time spent by additional members of the team (lawyers or support staff), itemized reprographic or other costs, or provided detailed time sheets. Defendants are prepared to provide such other information as the Court requires, but that information would be incremental to the \$99,565.20 in costs detailed above.

I declare under penalty of perjury that the foregoing is true and correct.

By: /s/ Susanna Buerge
Susanna Buerge

January 20, 2021
New York, New York